

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.**

In the Matter of:

REGINALD B. MAYS

And

MAYS REALTY COMPANY,

Respondents.

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DOCKET NO. 07-3421-DB

DEBARRING OFFICIAL'S DETERMINATION

INTRODUCTION

By separate Notices dated March 22, 2007 ("Notice"), the Department of Housing and Urban Development ("HUD") notified Respondents REGINALD B. MAYS and MAYS REALTY COMPANY that HUD was proposing their suspension and debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for an indefinite period from the date of the Notice, i.e., March 22, 2007. Both Notices advised the Respondents that the proposed debarment action was in accordance with the procedures set forth in 24 CFR part 24. Further, the Notice informed Respondents¹ that the proposed debarment was based upon REGINALD B. MAYS' criminal conviction in the United States District Court for the Eastern District of Missouri.

Respondent's conviction followed his guilty plea to one count of an Indictment that charged him with conspiracy to commit wire fraud in violation of 18 USC 371. In pertinent part, the Indictment details a scheme in which Respondent's coconspirators would identify individuals to pose as "straw buyers" of properties. Respondent's coconspirators would tell the straw buyers that they wanted to use the straw buyers' good credit to obtain capital for the former's real estate investment activities. The straw buyers were paid up to \$5,000.00 as compensation for allowing the use of their credit. The straw buyers did not receive most of the money borrowed and did not live in the houses ostensibly purchased in their names. The coconspirators would prepare false and fraudulent documents for the straw buyers to procure financing. The financing would be

¹ In view of the finding *infra* that Mays Realty Company is an affiliate of Reginald B. Mays, reference to Reginald B. Mays by extension includes his affiliate, Mays Realty Company.

used to buy the properties that the coconspirators had identified to be purchased in the name of the straw buyers. The Indictment further recites that "the loans obtained for the various properties were for far more than the fair market value of the homes. In order to do so, . . . Reginald Mays [would] prepare a false appraisal report which overstated the fair market value of the various homes involved in the scheme." Respondent received up to \$2,000.00 per property for which he prepared an inflated appraisal. In perpetrating their scheme, Respondent and his coconspirators purchased over 15 homes that in total were priced at millions of dollars over their fair market value.

For his part in the scheme, Respondent was placed on supervised probation for three years and ordered to pay restitution jointly and severally with his coconspirators of \$2,129,865.62.

A telephonic hearing on Respondent's proposed debarment was held in Washington, D.C. on August 10, 2007, before the Debarring Official's Designee, Mortimer F. Coward. Respondent was present at the hearing, appearing *pro se*. Todd Maiberger, Esq. appeared on behalf of HUD. The record was kept open until August 24, 2007, for further submissions from the parties.

SUMMARY

I have decided, pursuant to 24 CFR part 24, to debar Respondent from future participation in procurement and nonprocurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government, for an indefinite period from the date of this Notice. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The Notice of Proposed Debarment and Suspension dated May 22, 2007.
- (2) The Indictment against Respondent filed in the United States District Court for the Eastern District of Missouri.
- (3) The Amended Judgment in a Criminal Case entered February 20, 2007.
- (4) A letter from Respondent on Mays Realty Company letterhead dated April 30, 2007.
- (5) The Government's Brief in Support of Suspension and Indefinite Debarment filed July 27, 2007 (including all attachments and exhibits thereto).
- (6) A copy of an excerpt from the Presentence Investigation Report on Respondent faxed by Respondent to this office on August 23, 2007.
- (7) The tape recording of the August 10, 2007, hearing.

HUD's ARGUMENTS

HUD argues that Respondent's conviction provides cause for his suspension and debarment under 24 CFR 24. 800. HUD also argues that Respondent is a "participant"² as defined in the Department's regulations because of Respondent's ownership of Mays Realty Company and his former position as an FHA-approved real estate appraiser. Further, "as an individual who owns a real estate company and is a licensed appraiser,

² See 24 CFR 24.980

Respondent has participated in or is reasonably likely to participate in covered transactions.”³ The government contends too that Respondent’s participation in the fraudulent scheme demonstrates a lack of business integrity and honesty. Moreover, Respondent continued to exhibit a lack of present responsibility in that he engaged in a real estate transaction during his suspension, although seeking HUD’s permission for relief from his suspension prior to the close of the transaction.

HUD contends that Respondent’s arguments in mitigation of his actions offer him no help. Government counsel pointed to Respondent’s claim that his real estate license is in good standing, when, as Respondent well knew, his license is in a probationary status. Counsel also rejected as a mitigating factor for consideration in this matter, Respondent’s assertion that he received a light sentence because the court was impressed with his credentials and record. Counsel posited that while the court imposed a sentence of probation on Respondent for “punitive reasons and to assist Respondent in rehabilitation, debarment is designed to protect HUD prospectively.”

HUD also argued that Mays Realty Company (“MRC”) should be suspended and disbarred for the same period as Respondent. MRC, contends HUD, is an “affiliate” of Respondent’s as that term is defined in 24 CFR 24.905. Additionally, counsel cited to the State business records as proof that Respondent owns MRC, giving Respondent the power to control MRC, thereby establishing MRC’s affiliate status.

HUD stated in conclusion that “Respondent has demonstrated . . . that he is not a responsible person, therefore, the suspension and an indefinite debarment of Respondent and MRC are necessary to protect HUD and the public interest.”

RESPONDENT’S ARGUMENT’S

At the hearing, Respondent admitted that his actions in the fraudulent scheme were wrong and that he recognized the seriousness of the whole matter. According to Respondent, the offense that led to his conviction was his first ever and MRC’s first in 39 years of business. Respondent stated that his broker’s license was placed on probation as a result of operational deficiencies that had grown up before he assumed control of MRC. Respondent testified that he did not intentionally inflate the value of the properties that he appraised. Respondent continued that he charged an additional \$500.00 as a “rush fee” for a “quick turnaround” on an appraisal, not as a charge to intentionally inflate an appraisal. According to Respondent, an appraisal is an estimate and, as such, allows for a low or high figure. Respondent admitted that he gave “high-end values” to the properties that he appraised.

Respondent argued that none of the appraisals he did were on properties that received an FHA- insured or VA-guaranteed loan. In addition to arguing that his role in the scheme was minimal, Respondent argued that he did not know any of the straw buyers and that they themselves admitted they did not know him. Respondent testified that his only involvement with the other parties was in his e-mailing an appraisal to them.

³ Gov’t brief at 4-5.

Respondent concluded his testimony by asking for mercy and forgiveness. Respondent pleaded that what he did will never happen again and that the real estate business is his only means of livelihood.

FINDINGS OF FACT

1. Respondent was a participant in a covered transaction.
2. Respondent is a broker and a licensed appraiser.
3. Respondent's broker license is currently in a probationary status for matters unrelated to the instant action.
4. Respondent is the owner of Mays Realty Company.
5. Respondent pleaded guilty to one count of an Indictment that charged him with conspiracy to commit wire fraud.
6. Respondent provided inflated appraisals on properties that were involved in the fraudulent scheme.
7. Respondent was placed on supervised probation for three years and ordered by the court to pay restitution of \$2,129,865.62 jointly and severally with his coconspirators to various financial institutions.
8. Respondent has not paid the restitution as ordered by the court.
9. Respondent's criminal conviction provides a basis for his debarment under 24 CFR 24. 800.
10. Respondent engaged in a real estate transaction during his suspension.
11. Respondent provided a page from the Presentence Investigation Report that indicates he was the "least culpable" of the conspirators.
12. Respondent has no prior history of wrongdoing with respect to HUD's programs nor a criminal record.
13. Respondent is remorseful for his actions.

CONCLUSIONS

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent was a participant in a covered transaction as defined in 24 CFR part 24.
2. Respondent was a principal as defined in 24 CFR 24.995.
3. Mays Realty Company is an affiliate of Respondent Reginald B. Mays.
4. Respondent's fraudulent acts in providing inflated appraisals resulted in his criminal conviction, which serves as the basis for his debarment.
5. Pursuant to 24 CFR 800, Respondent's conviction is a cause for debarment.
6. Respondent has not yet paid the full restitution ordered by the court.
7. Respondent's involvement in the scheme to obtain money and property by fraudulent means raises grave doubts with respect to his business integrity and personal honesty.

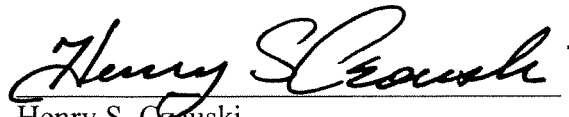
8. HUD has a responsibility to protect the public interest and take appropriate measures against participants whose actions may affect the integrity of its programs.
9. HUD cannot effectively discharge its responsibility and duty to the public if participants in its programs fail to act with honesty and integrity.

DETERMINATION

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent REGINALD B. MAYS and Respondent MAYS REALTY COMPANY for an indefinite period from the date of this Notice. In accordance with 24 CFR 24.870(b)(iv), Respondents' "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: _____

10/23/07



Henry S. Czauski
Debarring Official